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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,562	09/30/2003	Robert F. Buckman	212/522	7892

7590 12/15/2004

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Laguna Hills, CA 92653

EXAMINER
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KENNEDY, SHARON E

ART UNIT	PAPER NUMBER
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3762

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/676,562

Applicant(s)

BUCKMAN ET AL.

Examiner

Sharon Kennedy

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-10 and 16-27 is/are allowed.
- 6) ☒ Claim(s) 11-15 and 28 is/are rejected.
- 7) ☒ Claim(s) 29 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/17/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

### **DETAILED ACTION**

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action or the MPEP.

#### ***Claim Rejections - 35 USC § 102***

Claims 11-15 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Heim, US 5,807,341. See especially figures 5 and 6, which disclose the claimed strap.

Claim 28 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Daneshvar, US 5,582,599. See especially figure 11, bands 61, 62, 63 and 64, which may be adhesive (column 9, line 53).

#### ***Allowable Subject Matter***

Claims 1-10, 16-27 are allowed.

Claim 29 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: Regarding claim 1, none of the prior art shows or suggests the apparatus with the cutter and obturator protecting the edge of the cutter, the means for longitudinally translating the cutter relative to the obturator, and the other embodiments claimed. Regarding claim 21-27, the preamble recites a chest drainage apparatus, and the body recites that the limit stop functions to prevent the trocar from extending a predetermined depth into the chest cavity. Accordingly, the examiner considers that the preamble, which recites that the device is for chest drainage, limits the invention. While similar

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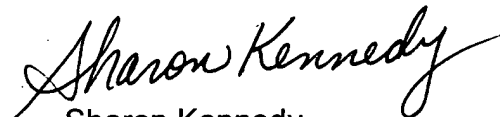
structural features are found in the prior art, none of the prior art shows or suggests the device having a chest drainage catheter. Regarding claim 29, none show or suggest the method with the blunt obturator and other embodiments.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon Kennedy whose telephone number is 571/272-4948. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on 571/272-4955.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sharon Kennedy  
Primary Examiner  
Art Unit 3762

Sek